

Summary – Government Commitments and Obligations for Used Commercial Fuel

1. Government's obligations arise from 1982 Nuclear Waste Policy Act, as amended.
2. Disposal is obligation of the government, under Section 111 of the NWPA.
3. Cost of storage and disposal is obligation of generators, owners "until such waste and fuel is accepted by the Secretary of Energy."
4. 70,000 metric ton-limit on used fuel going into Yucca Mountain repository.
5. Section 302 authorized Nuclear Waste Fund ("NWF"), required DOE to enter into contracts with NRC licensees ("utilities"), and set Jan. 31, 1998 date to begin to dispose of used fuel.
6. NWF has collected \$17-18 billion from utilities (at 1 mil/kw-hour), credited with a total of about \$33 billion by year-end 2010 (including interest).
7. Expenditures of \$7.3 billion from NWF to-date, leaving balance of approximately \$25.4 billion
8. Government collects over \$750 million for NWF, approximately \$2 billion (including interest) credited annually to NWF.
9. NARUC and NEI have filed petitions challenging 1 mil/kw-hour fee.
10. New standard contracts apparently provide that disposal will not be complete until as late as 20 years after termination of NRC operating license (including extensions). So, used fuel for a reactor that goes on-line in 2016 would not necessarily be disposed of by DOE until as late as 2036.
11. Waste-acceptance queue is generally oldest fuel first; DOE has consistently rejected taking giving priority to used fuel from decommissioned reactors.
12. DOE entered into 76 "standard contracts" with utilities; 72 cases brought for damages (six of which are "second round" cases).
13. 5 cases to final judgment, 6 voluntarily withdrawn, 11 cases settled, 50 still in litigation, more "second round" cases likely to be filed to stay within six-year statute of limitations.
14. Government has paid approx. \$760 million for settlements and one judgment.
15. Government estimated to owe \$2 billion for cases adjudicated or settled; DOE estimates gov't will owe approx. \$13.1 billion (2007 est., not updated as of 2010) for all litigation if it begins to accept used fuel by 2021. Add \$500 million/year if acceptance of fuel begins after 2021.
16. Damages paid from DOJ Judgment Fund, not NWF.
17. DOJ believes the litigation is becoming more predictable, claims might be more efficiently resolved through an administrative process of some sort.
18. Private interim storage is possible, but questions raised re: DOE interim storage.
19. If NRC application for Yucca Mountain Project is withdrawn, gov't liability likely to increase, but total amount of liability is unknown.